

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

Paper No. 15

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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Ex parte IAN A. WHEELER  
and  
DEAN WICKWIRE

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Appeal No. 2003-0820  
Application No. 09/789,989

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ON BRIEF

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Before PAK, DELMENDO, and PAWLIKOWSKI, Administrative Patent Judges.

DELMENDO, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on an appeal under 35 U.S.C. § 134 (2002) from the examiner's final rejection of claims 1 through 4 (final Office action mailed Oct. 1, 2001), which are all of the claims pending in the above-identified application.

The subject matter on appeal relates to a process for preparing water-blown polyurethane foam using a gaseous co-

blowing agent in which an A-side containing isocyanate is mixed with a B-side containing polyol. Further details of this appealed subject matter are recited in representative claim 1 reproduced below:

1. In a process for preparing water-blown polyurethane foam using a gaseous co-blowing agent in which an A-side containing isocyanate is mixed with a B-side containing polyol, the improvement which comprises conducting such mixing at a pressure of no more than about 1,300 psig.

The examiner relies on the following prior art references as evidence of unpatentability:

De Vos et al. (De Vos)	5,444,101	Aug. 22, 1995
Valoppi	5,700,843	Dec. 23, 1997

Claims 1 through 4 on appeal stand rejected under 35 U.S.C. § 102(b) as anticipated by Valoppi or De Vos. (Examiner's answer mailed Jun. 5, 2002, paper 10, pages 3-4.)

We affirm. Because we are in complete agreement with the examiner, we incorporate the examiner's analyses as our own and add the following comments primarily for emphasis.<sup>1</sup>

The examiner found that Valoppi and De Vos independently describe processes for preparing water-blown polyurethane foam

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<sup>1</sup> The appellants submit: "For purposes of this appeal, [c]laims 1-4 stand or fall together..." (Appeal brief filed Mar. 6, 2002, paper 8, p. 5) We therefore limit our discussion to claim 1. 37 CFR § 1.192(c)(7)(1995).

using a gaseous co-blowing agent in which an isocyanate component is mixed with a polyol component at ambient conditions (i.e., 14.7 psia). (Answer, pages 3-4.) From these findings, the examiner determined that each reference discloses every limitation of the claimed invention. In re Schreiber, 128 F.3d 1473, 1477, 44 USPQ2d 1429, 1431 (Fed. Cir. 1997).

The appellants, on the other hand, argue (appeal brief filed Mar. 6, 2002, paper 8, pages 6-7):

The problem with the rejection is that neither reference contains any discussion of the mechanics of making foams or of how with gaseous blowing agents high pressure impingement or mechanical mixing is used to introduce the A-sides and B-sides, let alone any discussion of how one might vary the same to overcome certain problems or deficiencies. Thus, these references neither anticipate appellants' claimed invention nor give motivation to one skilled in the art for selecting the critical upper pressure range to achieve improved water-blown foams when using gaseous blowing agents.

The appellants' arguments lack merit. Contrary to the appellants' allegation, the references do teach the "mechanics of making foams." (See, e.g., Valoppi at column 7, line 1 to column 11, line 8; De Vos at column 6, lines 17-49.)

While the appellants contend that the references do not teach "how with gaseous blowing agents high pressure impingement or mechanical mixing is used to introduce the A-sides and B-sides" [sic], appealed claim 1 merely recites: "a process for

preparing water-blown polyurethane foam using a gaseous co-blowing agent in which an A-side containing isocyanate is mixed with a B-side containing polyol, the improvement which comprises conducting such mixing at a pressure of no more than about 1,300 psig." As pointed out by the examiner (answer, page 4), each reference discloses a process in which an isocyanate-containing component and a polyol-containing component are mixed at ambient conditions. Thus, each reference describes every limitation of appealed claim 1.

The appellants' remark concerning the selection of a "critical upper pressure range to achieve improved water-blown foams when using gaseous blowing agents" is unavailing because the recited pressure range of "no more than about 1300 psig" reads on the ambient pressure condition disclosed in the references.

For these reasons and those set forth in the answer, we affirm the examiner's rejections under 35 U.S.C. § 102(b) of appealed claims 1 through 4 as anticipated by Valoppi or De Vos.

The decision of the examiner is affirmed.

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No time period for taking any subsequent action in  
connection with this appeal may be extended under 37 CFR  
§ 1.136(a).

AFFIRMED

Chung K. Pak	)	
Administrative Patent Judge	)	
	)	
	)	
	)	
	)	BOARD OF PATENT
Romulo H. Delmendo	)	
Administrative Patent Judge	)	APPEALS AND
	)	
	)	INTERFERENCES
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	)	
Beverly A. Pawlikowski	)	
Administrative Patent Judge	)	

rhk/msk/

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